

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff

-vs-

DECISION and ORDER

10-CR-6128

RICHARD ANDERSON

Defendant

This case was referred by order of the undersigned, entered June 22, 2010, ECF No. 2, to Magistrate Judge Jonathan W. Feldman, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B). On May 25, 2011, Defendant filed an omnibus motion, ECF No. 139, seeking *inter alia* suppression of physical evidence seized from 2978 Upton Road in Columbus, Ohio on March 10, 2010, pursuant to a search warrant, and suppression of statements Defendant allegedly made to members of the Greece Police Department on March 19, 2010. On April 19, 2012, Magistrate Judge Feldman filed a Report and Recommendation ("R&R"), ECF No. 234, recommending that the Court deny Defendant's applications to suppress physical evidence and statements. Defendant timely filed objections to the R & R on July 5, 2012, ECF No. 255, arguing that "the Court reject the Magistrate Judge's recommendation and suppress the tangible evidence on the ground that the search warrant affidavit was so lacking in indicia of probable cause as to render belief in its existence entirely unreasonable, thereby barring application of the good faith exception to the exclusionary rule."

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the R & R to which objections have been made.

Upon a *de novo* review of the R & R, including a review of the search warrant and application at issue, the Court accepts the proposed findings and recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Feldman's R & R, ECF No. 234, defendant's application, ECF No. 139, to suppress physical evidence seized from 2978 Upton Road in Columbus and his application to suppress statements allegedly made to members of the Greece Police Department (regarding which no objection was made to the R & R) are denied.

IT IS SO ORDERED.

Dated: Rochester, New York
July 30, 2012

ENTER:

/s/ Charles J. Siragusa

CHARLES J. SIRAGUSA
United States District Judge